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IN THE

Supreme Court of the United States

October Term, 1957

No. 33

MICHAEL WILSON, *et al.*,

Petitioners,

vs.

LOEW'S INCORPORATED, a corporation, *et al.*,

Respondents.

On Writ of Certiorari to the District Court of Appeal, Second Appellate District, State of California, Division Three.

Objection to Motion of American Civil Liberties Union for Leave to File a Brief as Amicus Curiae.

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Respondents Loew's Incorporated, a corporation; Paramount Pictures, Inc., a corporation; Columbia Pictures Corporation, a corporation; R.K.O. Radio Pictures, Inc., a corporation; Warner Brothers Pictures, Inc., a corporation; Republic Productions, Inc., a corporation; Hal E. Roach Studio, Inc., a corporation; Twentieth Century-Fox Film Corporation, a corporation; Universal Pictures Company, Inc., a corporation; Warner Bros. Pictures Distribution Corp., a corporation; United States Pictures, Inc., a corporation; Stanley Kramer Productions, Inc., a corporation; Sol Lesser Productions, Inc., a corporation;

Association of Motion Picture Producers, Inc., a corporation; E B. Mannix, Dore Schary, Harry M. Warner, and Jack Warner, object to the motion of American Civil Liberties Union For Leave To File A Brief As Amicus Curiae.

The reason for withholding consent to the filing of such a brief is that the proposed *amicus curiae* seeks to enlarge the scope of the questions raised in the petition for writ of certiorari and to raise and argue questions not heretofore raised or argued by the parties.

1. Here the central issue, in the language of the petition for certiorari [pp. 22-23], was

> "whether affected persons . . . are without . . . recourse to the Constitution when the agreement by [a] monopolistic combination excludes from the industry all those who claim the privilege against self-incrimination guaranteed by the federal Constitution, or who, when named as Communists in [a] legislative inquiry, fail to voluntarily appear and answer all questions without invocation of their Constitutional privileges."

Neither in statement of question nor in argument did petitioners raise any question which would differentiate the position of the so-called "Committee" respondents from that of the other respondents. Rather, petitioners said, "The same federal question" was presented as to all. [Pet., p. 33.] Emphasis and reasoning were confined to the acts of all respondents as private or non-official persons. They were referred to as "this non-governmental combination" or "group" [Pet., pp. 24, 29]; as not being "law enforcement agencies" [Pet., p. 25]; and throughout, as the "employers."

2. Proposed *amicus curiae*, admitting that "petitioners' arguments have mainly dwelt on the activity of the industry respondents. . . ." [*Motion*, p. 3], seeks to raise the question of "the validity and constitutionality of the conduct of the Committee respondents. . . ." apparently as affected by their official positions. [*Motion*, p. 3.] Thus, it is necessarily sought to go beyond the question presented by petitioners and to review which alone certiorari presumably was granted.

3. Also sought to be raised is the question whether "the decision below discriminatorily refused to give petitioners the benefit of California law establishing that an exclusion from one's calling is a basis for a cause of action . . .". [*Motion*, p. 4.] That is a question nowhere raised or suggested in the petition for certiorari.

The motion for leave to file a brief as *amicus curiae* should be denied.

Respectfully submitted,

IRVING M. WALKER,
HERMAN F. SELVIN,
Attorneys for Objecting Respondents.